

Salisbury, North Carolina  
February 06, 2018

## **REGULAR MEETING**

**PRESENT:** Mayor Al Heggins, Presiding; Mayor Pro Tem David Post; Council Members Karen Alexander, William Brian Miller, and Tamara Sheffield; City Manager W. Lane Bailey; City Clerk Diane Gilmore, and City Attorney F. Rivers Lawther, Jr.

**ABSENT:**

Salisbury City Council met in Council Chambers in City Hall located at 217 South Main Street. The meeting was called to order by Mayor Heggins at 5:00 p.m.

## **PLEDGE OF ALLEGIANCE**

Mayor Heggins led those present in the Pledge of Allegiance to the United States flag.

## **RECOGNITION OF VISITORS**

Mayor Heggins welcomed all visitors present. Mayor Heggins recognized Mr. James Bristol from Boy Scout Troop 443 at St. John's Lutheran Church who is working towards his Boy Scout Merit Badge, Citizenship in the Community.

## **CHANGES TO THE AGENDA**

Mayor Heggins noted the following change to the Agenda:

Omit – Item 11 Council to consider authorizing Code Enforcement to board the structure at 305 East Fisher Street to secure first level entry of abandoned structure. Mayor Heggins noted the property owner has resolved the issue.

### **CONSENT AGENDA**

(a) Minutes

Adopt Minutes of the Regular meeting of January 02, 2018.

(b) Right-of Way Request – AT&T

Approve a request from AT&T to install fiber optic conduit within the City Right-of-Way in accordance with Section 11-24 (27) of the City Code.

(c) Right-of-Way Request – Level 3 Communications

Approve a request from Level 3 Communications to install fiber optic conduit within the City Right-of-Way in accordance with Section 11-24.(27) of the City Code.

(d) Temporary Lane Closure

Adopt an Ordinance declaring temporary road closure on Jake Alexander Boulevard beginning at Lincoln Road and ending on Statesville Boulevard at Brenner Avenue for the Buck Hurley Triathlon to be held on Saturday, May 6, 2018.

ORDINANCE DECLARING A TEMPORARY ROAD CLOSURE FOR THE BUCK HURLEY TRIATHLON.

(The above Ordinance is recorded in full in Ordinance Book No. 27 at Page No. 6 and is known as Ordinance 2018-06.)

(e) Right-of-way Request – 126 East Innes Street

Approve a request from DGN, Inc. and LMY, Inc. to perform work near 126 East Innes Street within the City Right-of-Way in accordance with Section 22-50 of the City Code.

Thereupon, Mayor Pro Tem Post made a **motion** to adopt the Consent Agenda as presented. Councilmember Miller seconded the motion. Mayor Heggins, Mayor Pro Tem Post, and Councilmembers Alexander, Miller, and Sheffield voted AYE. (5-0)

Mayor Pro Tem Post pointed out the Minutes approved by Council include revisions.

## **COMPREHENSIVE ANNUAL FINANCIAL REPORT**

Elliot Davis, PPLC Senior Manager, C.J. Palmer, addressed Council regarding the City's 2017 Comprehensive Annual Financial Report (CAFR) for the fiscal year ended June 30, 2017. Mr. Palmer thanked Council for allowing Elliott Davis to perform the City's audit. He also thanked the finance team for their cooperation throughout the audit process.

Mr. Palmer referred to the auditor's report which outlines management's responsibility for the financial statements and the auditor's responsibility to audit and give opinions based upon fair presentation of the financial statements in accordance with generally accepted accounting principles (GAAP). He noted the company included reports on internal control regarding financial reporting and compliance that included programs for federal and state grants to the City, and he pointed out required risk assessment testing was also performed.

Mr. Palmer reported on a repeated finding for the Broadband Services Fund due to the Fund's deficit net position. He also noted a finding for the late filing of the 2016 data collection form with Federal Audit Clearing House but noted the 2017 filing is on time.

Mr. Palmer referenced the General Fund Revenues which increased by \$1.1 million. He reviewed the General Fund Revenues by source and the General Fund expenditures and transfers. Mayor Pro Tem Post asked why there was an increase. Mr. Palmer explained revenue continued to increase and capital outlay expenditures were below the budgeted amount. Mayor Pro Tem Post asked if the differences were more of a deferral rather than savings, and Mr. Palmer agreed.

Mr. Palmer reviewed the available Fund Balance as a percentage of expenditures and transfers for the General Fund. He noted the Fund Balance available remained consistent with the prior year of 40%, and he commented it is significantly higher than the City's policy of 10%. City Manager Lane Bailey referenced the projections for next year, and he noted the challenges faced in the current fiscal year. He pointed out an increase in Police Department salary line items that includes contracted services with the Rowan County Sheriff's Department. He referenced retirement and overtime pay in the Police and Fire Departments, and he indicated the amount of Fund Balance available should decrease in the coming fiscal year.

Mr. Palmer referenced the General Fund Revenues which show a slight increase. He reviewed the General Fund Revenues by source and the General Fund expenditures and transfers. He commented Public Safety had \$2.3 million in unspent capital outlay, and he noted the Transportation Department has unspent funds intended for engineering projects.

Mr. Palmer reviewed the Broadband Services Fund, and he pointed out a small operating loss that included non-cash items such as depreciation. Mayor Pro Tem Post commented about the loss before transfers of \$1.7 million, and that after the transfers from the General Fund the Broadband Services Fund showed an increase of \$600,000. Mayor Pro Tem Post asked if the Finance Department budgeted to cover the loss. Finance Director Shannon Moore agreed, and she explained some of the loss is in relation to the Capital Replacement Fund started in the previous year that included budgeted expenditures that had not been spent. Mayor Pro Tem Post asked if the revenue decreased by \$1 million because the City overcharged itself for the dark fiber. Ms.

Moore commented the overcharge was estimated at \$500,000. Mayor Pro Tem Post asked if the \$500,000 was due to a drop in Fibrant subscriptions. City Manager Lane Bailey agreed, and he referenced the cleaning of Fibrant accounts receivable. Mr. Palmer indicated operations showed cash flow positive for the core operations.

Mr. Palmer reviewed the Enterprises Funds that include Water and Sewer, Stormwater, and Transit revenues, and he noted a positive net position and positive unrestricted net position. Councilmember Miller asked if income before amounts transferred pertained to the meter project to be spent over time or if the amount reflects revenues and excessive expenses. Ms. Moore clarified the meter project would reflect in revenue and excessive expenses and is not tied to the Capital Project Fund. Councilmember Miller asked if it is normal to have overages in the Revenue Fund. Finance Manager Wade Furches indicated the numbers presented are on a full accrual basis.

Councilmember Alexander asked if the Stormwater account line included Stormwater grants that are approved by Council. Mr. Bailey stated those grants are paid through the Fund Balance.

Mayor Pro Tem Post referenced Transit losses, and he pointed out the losses were expected when accommodations for more accessible transportation were made.

Mayor Pro Tem Post asked about GASB 73 which is mentioned in Management's Discussion and Analysis. Mr. Furches explained GASB 73 is the implementation of reporting for the Law Enforcement Special Separation Allowance, and he commented it is the same type of reporting that is used for the Local Government Retirement System. He commented \$2.7 million was added to the beginning liabilities of the General Fund for the full beginning liability of the Separation Allowance.

Mayor Pro Tem Post asked about the City's long-term debt payout. Mr. Furches indicated the amount of the debt reduction included all regular debt payments, and he added no money has been borrowed in a few years. Mayor Pro Tem Post asked if there has been a change in the City's bond rating. Mr. Furches commented no changes have been made to the bond rating.

Mayor Pro Tem Post asked about the downtown occupancy rate that dropped below 90%. Mr. Furches noted he used a report generated by Downtown Salisbury, Inc. (DSI), and the occupancy rate is in the upper 80th percentile.

Mayor Pro Tem Post thanked Mr. Palmer and the Finance Department for their presentation.

**LAND DEVELOPMENT DISTRICT MAP ADMENDMENT Z-01-2018 – 2320**  
**STATESVILLE BOULEVARD**

Development and Code Services Manager Preston Mitchell address Council regarding Land Development District Map Amendment Z-01-2018. He noted the request is to rezone a 16 acre site from General Residential (GR-6) District to Highway Business (HB) District.

Mr. Mitchell reviewed the area zoning, and he pointed out adjoining parcels are zoned General Residential (GR-6), Corridor Mixed-use (CMX), Commercial, and predominately Highway Business (HB) District.

Mr. Mitchell noted a GR-6 is a single family residential zoning and HB zoning is intended for an automobile oriented highway use. He stated the Planning Department considered the geography surrounding the site, and he indicated the roadway has future development changes.

Mr. Mitchell explained the property's landscape would require an F-type yard buffer to include a 25 foot visual separation, and he noted the building type would change to allow commercial and business use.

Mr. Mitchell commented the Planning Board voted in favor of the rezoning on Statesville Boulevard with the understanding it would not impact the surrounding areas.

Mayor Heggins asked how the Planning Board determines a recommendation. Mr. Mitchell stated Planning Board forms a recommendation based on information and research provided by the staff. Mayor Heggins asked if staff communicates with surrounding property owners. Mr. Mitchell explained notifications are sent to property owners. He noted if a property owner or citizen opposes the rezoning request they are encouraged to attend the Planning Board meetings to voice their opinions or ideas before the item is brought to Council. He noted there are three methods to issue a public notice: property site, newspaper ad, and mailing letters. Mayor Heggins asked if staff provides public notice beyond what is required by law. Mr. Mitchell stated Land Use Attorneys with the University of North Carolina at Chapel Hill (UNC) School of Government (SOG) state administrators of a city cannot arbitrarily decide what audience it chooses to notify. He noted the department follows General Statutes as well as local notification Ordinances. He clarified that staff will educate the developer and provide examples of possible oppositions. He noted if oppositions are abundant, staff would suggest the developer hold a neighborhood meeting, and he clarified the petitioner is responsible for assembling a neighborhood meeting.

Councilmember Sheffield asked about the zoning of 2270 and 2290 Statesville Boulevard. Mr. Mitchell explained the difference in commercial and residential areas. Councilmember Sheffield asked about a large buffer yard. Mr. Mitchell stated if the rezoning is approved, and the church decided to sell or rebuild, the F2-type buffer would be required. Councilmember Sheffield asked if two, F2-type buffers were required since one already exists on the site. Mr. Mitchell explained the differences in zoning types, and he pointed out a conditional rezoning is more detailed. Councilmember Sheffield asked if the Planning Board recommended the rezoning. Mr. Mitchell stated the Planning board did recommend the rezoning.

Councilmember Alexander commented that the petitioner expressed the need for an electronic sign, and she asked how the rezoning was selected for this property. Councilmember Alexander then asked if the Sign Ordinance could be revisited so churches do not have to obtain an HB rezoning petition to install an electronic sign. Mr. Mitchell stated staff performed an analysis on that same theory before the request was brought to Council, and he pointed out the newly adopted Sign Ordinance and policy was set by a committee. He pointed out electronic sign installations are in the City's future, and he noted City policy allows signs to be approved in areas of nonresidential boulevards. He noted State law prohibits the writing of a law for users, and he explained laws are written for the areas. He commented a revision to the existing Sign Ordinance, which is written for zones, would suggest electronic signs are allowed in all general residential areas. He noted it would be a greater shift in a policy than a rezoning. He explained the church is zoned HB along the east side of the property and is located on a main five lane thoroughfare. He commented residential zonings in the area are projected to dissipate with future development. He commented the analysis concluded a rezoning to be the best outcome for current and future development.

Mayor Pro Tem Post asked about the property to the west that is zoned as GR-6 and if it would allow a church to build on the site. Mr. Mitchell stated the only type of nonresidential development allowed in residential zones are churches and schools. Mayor Pro Tem Post asked if there was an institutional or campus zoning that would allow the use of an electronic sign. Councilmember Alexander commented Catawba and Livingstone Colleges have electronic signs, and she asked why not rezone from GR to Institute Campus (IC). Mr. Mitchell noted the IC zoning is available and a natural buffer is currently on the property.

(b) Mayor Heggins convened a public hearing, after due notice thereof, to receive comments regarding Z-01-2018.

Mr. Rodney Queen commented he previously served on the Planning Board. He stated the location is ideal for HB rezoning. He commented the backside of the property drops off which could cause problems for future development. He commented churches should be allowed to have electronic signs and the Sign Ordinance should be revisited.

Mr. Duran Merrell stated he is a member of Maranatha Bible Church, and he pointed out part of the property is already zoned HB. He commented the zoning was brought to his attention when the church submitted an application for an electronic sign.

There being no one else to address Council, Mayor Heggins closed the public hearing.

Councilmember Miller commented the property is considered split-zoned and has future business development. Councilmember Miller noted he served on the Planning Board and a small study was performed to retain the residential aspect of the area, and he asked staff to review the study. Mr. Mitchell stated staff would revisit the study prepared for the area.

Councilmember Sheffield stated the property is a gateway into the City and she supports the proposed rezoning.

Councilmember Miller stated the City Council hereby finds and determines that adoption of an Ordinance to rezone the property described herein, as requested, is reasonable, in the public interest, and not inconsistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan because according to the proposed petition, site characteristics, surrounding development patterns, and observations provided by city planning staff, there are no policies in direct opposition to the petition. Thereupon, Councilmember Miller made a **motion** to adopt an Ordinance amending the Land Development District Map of the City of Salisbury, North Carolina, rezoning 2320 Statesville Boulevard from General Residential District to Highway Business District. Councilmember Alexander seconded the motion. Mayor Heggins, Mayor Pro Tem Post, and Councilmembers Alexander, Miller, and Sheffield voted AYE. (5-0)

**ORDINANCE AMENDING THE LAND DEVELOPMENT DISTRICT MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, REZONING 2320 STATESVILLE BOULEVARD FROM GENERAL RESIDENTIAL DISTRICT TO HIGHWAY BUSINESS DISTRICT.**

(The above Ordinance is recorded in full in Ordinance Book No. 27 at Page No.7, and is known as Ordinance 2018-07.)

**PUBLIC COMMENTS**

Mayor Heggins opened the floor to receive public comments.

Mr. Ronnie Smith commended Council for its leadership. He referenced an article in the *Salisbury Post* that highlighted City employees, and he thanked Salisbury Public Services Department for its service during the recent winter weather. He asked Council to support the Rowan County Vietnam Veterans project.

Mr. Duran Merrell commended Council for its consideration to the rezone property located at 2320 Statesville Boulevard.

Mr. Marvin Jones stated he had difficulty accessing the Council Agenda on the City's website, and he asked if backup information for agendas could be provided to the public.

Mayor Heggins asked City Clerk Diane Gilmore about the Agenda. Ms. Gilmore stated the Agenda was placed on the website the previous Wednesday.

Mr. Tenkomenin Crowder expressed concerns regarding the protest Ordinance, and he stated he did not understand the process of the Ordinance. He asked Council if the statue at the intersection of Innes and Church Streets could be moved.

Mr. Douglas Ishaum shared information regarding an electronic pet leash. He read sections of Rowan County's Ordinance that pertained to the restraint of an animal.

Ms. Renee MacNutt commented about the previous rezoning request. She stated she hopes Council will consider the need for a Spanish translator at Council meetings.

Mayor Heggins noted the need for a Spanish translator for Council meetings is currently being addressed.

Mr. Todd Paris commended Council for its support to the community, and he commented Council Chambers are more inviting since its repainting. He suggested using façade money toward installing downtown security cameras.

There being no one else to address Council, Mayor Heggins closed the public comment session.

**LAND DEVELOPMENT DISTRICT MAP Z-04-2018 – 400 BLOCK OF BRINGLE FERRY ROAD AND EAST LAFAYETTE STREET**

Development and Code Services Manager Preston Mitchell addressed Council regarding Land Development Ordinance (LDO) District Map Amendment Z-04-2018. He pointed out the proposed rezoning is for vacant lots located at 405 Bringle Ferry Road and 424 East Lafayette Street at the intersection of Bringle Ferry Road and Long Street. He noted the request is to rezone the four parcels from Urban Residential (UR) District to Corridor Mixed-Use (CMX) District. He stated the petitioner is Mr. Joel Flores.

Mr. Mitchell explained the property at 424 East Lafayette Street was involved in a Code Enforcement minimum housing case that was resolved by Mr. Flores. He noted the structure at 405 Bringle Ferry Road partially burned and Mr. Flores may remove it at a later date.

Mr. Mitchell reviewed permitted uses under CMX zoning, and he pointed out if the properties were redeveloped a 15-foot buffer would be required along the property line that extends to the homes located at 430 East Lafayette Street, 714 North Shaver Street and 437 Bringle Ferry Road.

Mr. Mitchell stated all required notifications have been met. He explained the request is to extend CMX zoning across the four parcels owned by Mr. Flores. He noted staff recommends the request is not inconsistent with the Vision 2020 Plan and not inconsistent with the Park Avenue Neighborhood Plan. He pointed out the block being considered for rezoning has no policies in objection or support of the proposed rezoning. He indicated Planning Board supported the rezoning, and it discussed how the proposed rezoning would affect the three remaining residential properties. He noted single family residential use is permitted in CMX zoning, but if the CMX zoning is approved it could put pressure on the three remaining residential properties to rezone in the future.

Councilmember Miller asked about the width of the lots involved in the rezoning. Mr. Mitchell noted the lots are 50 feet wide. Councilmember Miller pointed out a 15-foot buffer on a 50-foot lot could impact what could be constructed on the property. Mr. Mitchell referenced the Landscape Alternate Methods of Compliance, and he indicated the landscape buffering could be pushed to the corners of the property. He commented the 15-foot buffering would impact the property, but would not make it undevelopable.



Mr. Mitchell noted Mr. Flores is in the audience, but he may not reveal how he plans to use the property. He added Mr. Flores operates the auto repair business located at 401 Bringle Ferry Road, but he does not own the property. He explained Mr. Flores purchased the properties to be rezoned and is planning to expand his business.

Councilmember Sheffield asked why the properties proposed for rezoning were excluded from the Park Avenue Neighborhood Plan. Mr. Mitchell pointed out CMX zoning and heavy commercial usage exist at the intersection of Bringle Ferry Road and Long Street. He indicated the drafters of the Park Avenue Neighborhood Plan may have acknowledged the industrial and commercial buildings with the possibility of redevelopment of the properties in the future. He added the focus of the plan was preservation and protection of housing stock in the community.

Mayor Heggins convened a public hearing, after due notice thereof, to receive comments regarding Z-04-2018.

There being no one to address Council, Mayor Heggins closed the public hearing.

Mayor Pro Tem Post asked Mr. Mitchell if he is allowed to reveal what type of business would be constructed on the lots proposed for rezoning. Mr. Mitchell stated a used car lot could be constructed on the property, but he cautioned the petitioner may change the property usage.

Councilmember Alexander asked if fencing would be included in the rezoning requirements to protect the residential houses surrounding the property. Mr. Mitchell pointed out design considerations are not allowed in a general rezoning. Councilmember Alexander asked if a Conditional District (CD) Overlay would be better suited for this situation.

Councilmember Miller stated he does not have a problem with the rezoning, but he expressed concerns regarding the buffer requirement. Councilmember Miller pointed out the Alternate Design Methods would not separate the properties with a 15-foot buffer. Councilmember Miller suggested a CD Overlay that would require a fence instead of a 15-foot buffer be considered, and he asked if the petitioner would have to agree to requirements. Mr. Mitchell noted the petitioner would have to agree to the requirement, and he pointed out a CD-Overlay would include a site plan. He noted the project is in the design phase.

Councilmember Alexander agreed with Councilmember Miller. Mayor Pro Tem Post asked if Mr. Flores is aware of the 15-foot buffer requirement.

Mayor Heggins reconvened the public hearing and invited Mr. Flores to address Council.

Mr. Joel Flores explained he purchased the properties to expand his business. He stated he operates an auto repair shop, and the properties would provide additional room for the business to expand. He added he does not have a building plan at this time.

Mayor Pro Tem Post asked Mr. Flores if he is aware of the 15-foot buffer requirement for CMX zoning. Mr. Flores stated he understands the buffer requirements. He pointed out the rezoning is what he needs at this time, and his need may change in the future. Councilmember

Alexander clarified Mr. Flores will be unable to use the parcels for his business if the pavement and buffer requirements are not met.

Councilmember Miller recommended creating a Council Committee to work with Mr. Flores. Mayor Pro Tem Post asked Mr. Flores if he is willing to work with a Committee to determine what is mutually best for his business and the City. Mr. Flores agreed to wait for a recommendation from the Council Committee.

There being no one to address Council, Mayor Heggins closed the public hearing.

Thereupon, Councilmember Miller made a **motion** to send the item to a Council Committee with the intent to return to Council at its next meeting. Councilmember Sheffield seconded the motion. Mayor Heggins, Mayor Pro Tem Post, and Councilmembers Alexander, Miller, and Sheffield voted AYE. (5-0)

Mayor Pro Tem Post and Councilmember Miller agreed to serve on the Council Committee.

## **RECESS**

Mayor Heggins made a **motion** to take a ten minute recess and all Councilmembers in attendance agreed unanimously to recess.

The meeting reconvened at 7:08 p.m.

## **LAND DEVELOPMENT ORDINANCE TEXT AMENDMENT TA-07-2017 – BUILDING CLADDING**

Development and Code Services Manager Preston Mitchell addressed Council regarding Land Development Ordinance (LDO) Text Amendment TA-07-2017. He explained the request would revise Chapter 5 of the LDO related to building cladding. He noted Planning Board considered the recommendation at its November 2017 meeting and recommended unanimous approval.

Mr. Mitchell explained the North Carolina General Assembly adopted Bill NCSL 2015-86 which removed design control decisions from local municipalities, specifically related to single family homes. He noted the request before Council is to repeal all of the building, siding, window and roofing materials and construction methods from the LDO.

Councilmember Miller clarified staff is proposing to remove the language from the Ordinance because it can no longer be enforced due to changes in the State law. Mr. Mitchell agreed.

(b) Mayor Heggins convened a public hearing, after due notice thereof, to receive comments regarding TA-07-2017.

There being no one to address Council, Mayor Heggins closed the public hearing.

Mayor Pro Tem Post pointed out the City must comply with State law. Councilmember Alexander noted North Carolina Building Code includes building material quality standards.

Councilmember Miller stated the City Council hereby finds and determines that adoption of an Ordinance to amend the Land Development Ordinance of the City of Salisbury as underlined or stricken herein is reasonable, in the public interest, and is not inconsistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan because according to the proposed amendment there are no policies directly supported by or in objection to the proposal. Thereupon, Councilmember Miller made a **motion** to adopt an Ordinance amending Chapter 5 (Building Types and Standards) of the Land Development Ordinance of the City of Salisbury, North Carolina related to Residential and Commercial Building Cladding. Councilmember Alexander seconded the motion. Mayor Heggins, and Councilmembers Alexander, Miller, and Sheffield voted AYE. Mayor Pro Tem Post voted NAY. (4-1)

ORDINANCE AMENDING CHAPTER 2 (DISTRICTS), CHAPTER 3 (ADDITIONAL USE STANDARDS), AND CHAPTER 18 (DEFINITIONS) OF THE LAND DEVELOPMENT ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA, RELATED TO HOME OCCUPATIONS AND OTHER ADDITIONAL USE STANDARDS.

(The above Ordinance is recorded in full in Ordinance Book No. 27 at Page No. 8-11, and is known as Ordinance 2018-08.)

#### **LAND DEVELOPMENT ORDINANCE TEXT AMENDMENT TA-06-2017 – PUBLIC NOTIFICATIONS**

Development and Code Services Manager Preston Mitchell addressed Council regarding a proposed change to the Land Development Ordinance (LDO) Text Amendment T-06-2017 to revise Chapter 15 of the LDO related to Public Notifications. He explained North Carolina General Statutes require municipalities to notify the petitioner, the property owner involved and immediate adjoining properties of rezoning's and text amendments. He noted the City extends the notifications by 100 feet. He noted the request before Council would clarify public notification requirements.

Mr. Mitchell reviewed section 15.3 Item B of the LDO, and he noted staff recommends removing the required public notifications at City Hall. He explained there is no statutory mandate to post individual items on City Hall doors or windows. He pointed out Council and Boards and Commissions agendas that list specific items to be covered during the meeting are posted on the City's website and this meets statutory obligations.

Mr. Mitchell then reviewed section 15.2 Item E, and he noted staff proposes a change to the LDO to include third-party petitions to meet State requirements. He indicated third-party petitions and rezoning petitions require a certified letter be sent to the property owner. He commented it is a State law that needs to be added to the LDO.

Mr. Mitchell also reviewed section 15.3.1, and he indicated staff proposes a change be made to notifications for courtesy hearing held at Planning Board meetings. He explained public hearings held at City Council meetings are required by State law and courtesy hearings held at Planning Board meetings are not required by State law. He stated the proposal is for notifications for Planning Board courtesy hearings to be similar to City Council notifications and include a sign posted on the property, and a first-class mailed notification to the petitioner, the property owner and the owners of adjoining properties. He commented the Planning Board notification would satisfy State law, and he pointed out Council notifications extend 100-feet beyond the requirement.

Mayor Pro Tem Post asked if first-class mail notifications listed in Section 15.3.1 would take the place of registered letters. Mr. Mitchell clarified Section 15.3.1 refers to public notices for Planning Board only, and he added a registered letter is required for Council meeting notifications.

Councilmember Miller clarified if he makes a request to rezone someone else's property, and he is going before Planning Board, a certified letter is not required, but if the item is being addressed by Council a certified letter is required. Mayor Pro Tem Post agreed. Councilmember Miller suggested the text amendment include Sections C, D, and E as it would cover all mailing notifications requirements for third-party notifications. Mr. Mitchell agreed to include sections C, D and E in the request.

- (b) Mayor Heggins convened a public hearing, after due notice thereof, to receive comments - regarding TA-06-2017.

There being no one to address Council, Mayor Heggins closed the public hearing.

Councilmember Miller stated the City Council hereby finds and determines that adoption of an Ordinance to amend the Land Development Ordinance of the City of Salisbury as underlined or stricken herein is reasonable, in the public interest, and is not inconsistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan because according to the proposed amendment there are no policies directly supported by or in objection to the proposal. Thereupon, Councilmember Miller made a **motion** to adopt an Ordinance amending Chapter 15 (Development Process) of the Land Development Ordinance of the City of Salisbury, North Carolina related to Public Notifications for Board, Commission, or Council meetings and in Section 15.3.1 in the second paragraph to include Section E as well and with the clarification that the word "of" be added to the last sentence of Section 15.3, subsection D. Mayor Pro Tem Post seconded the motion. Mayor Heggins, Mayor Pro Tem Post, and Councilmembers Alexander, Miller, and Sheffield voted AYE. (5-0)

ORDINANCE AMENDING CHAPTER 15 (DEVELOPMENT PROCESS) OF THE LAND DEVELOPMENT ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA RELATED TO PUBLIC NOTIFICATIONS FOR BOARD, COMMISSION, OR COUNCIL MEETINGS

(The above Ordinance is recorded in full in Ordinance Book No. 27 at Page No. 12-14, and is known as Ordinance 2018-09.)

**BOARDS AND COMMISSIONS**

Community Appearance Commission

Upon a motion by Councilmember Sheffield, seconded by Councilmember Miller. Mayor Heggins, Mayor Pro Tem Post, and Councilmembers Alexander, Miller, and Sheffield voting AYE, the following re-appointment was made to the Community Appearance Commission for a term to begin April 1, 2018:

Ms. Jane Creech	Term Expires 3/31/21
Mr. Carlton Jackson, Jr.	Term Expires 3/31/21

Greenway Committee

Upon a motion by Councilmember Alexander, seconded by Councilmember Miller. Mayor Heggins, Mayor Pro Tem Post, and Councilmembers Alexander, Miller, and Sheffield voting AYE, the following re-appointment was made to the Greenway Committee for a term to begin April 1, 2018:

Mr. Darryl Blackwelder	Term Expires 3/31/21
Mr. Edward Hirst	Term Expires 3/31/21
Ms. Lisa Wear	Term Expires 3/31/21

Housing Advocacy Commission

Upon a motion by Councilmember Sheffield, seconded by Councilmember Alexander. Mayor Heggins, Mayor Pro Tem Post, and Councilmembers Alexander, Miller, and Sheffield voting AYE, the following re-appointment was made to the Housing Advocacy Commission for a term to begin April 1, 2018:

Ms. Greta Conner	Term Expires 3/31/21
Ms. Jayne Helms	Term Expires 3/31/21
Mr. Sean Meyers	Term Expires 3/31/21

Mayor Heggins stated that Councilmember Sheffield, Council liaison to the Housing Advocacy Commission, confirmed that Ms. Conner wanted to be re-appointed to the commission.

Mayor Pro Tem Post asked if Ms. Greta Conner was eligible to serve on the Housing Advocacy Commission. Mayor Heggins stated Councilmember Sheffield confirmed Ms. Conner's eligibility for reappointment. Councilmember Miller asked for clarification regarding the word eligible. Councilmember Sheffield stated she inquired about Ms. Conner's eligibility with the Chair of the Housing Advocacy Commission and she confirmed Ms. Conner's term limits would allow her to serve.

#### Human Relations Council

Upon a motion by Councilmember Sheffield, seconded by Councilmember Alexander. Mayor Heggins, Mayor Pro Tem Post, and Councilmembers Alexander, Miller, and Sheffield voting AYE, the following re-appointment was made to the Human Relations Council for a term to begin April 1, 2018:

Ms. Annie Boone-Carroll	Term Expires 3/31/21
Mr. Lorenzo Debose	Term Expires 3/31/21
Ms. Linda Hunt	Term Expires 3/31/21

#### Hurley Park Advisory Board

Upon a motion by Councilmember Alexander, seconded by Mayor Pro Tem Post. Mayor Heggins, Mayor Pro Tem Post, and Councilmembers Alexander, Miller, and Sheffield voting AYE, the following re-appointment was made to the Hurley Park Advisory Board for a term to begin April 1, 2018:

Ms. Kathryn Davis	Term Expires 3/31/21
Ms. Laura Thompson	Term Expires 3/31/21

#### Parks and Recreation Advisory Board

Upon a motion by Councilmember Alexander, seconded by Councilmember Miller. Mayor Heggins, Mayor Pro Tem Post, and Councilmembers Alexander, Miller, and Sheffield voting AYE, the following re-appointment was made to the Parks and Recreation Advisory Board for a term to begin April 1, 2018:

Mr. Roy Bentley	Term Expires 3/31/21
Mr. John Brunton	Term Expires 3/31/21
Mr. Windsor Eagle	Term Expires 3/31/21

### Planning Board

Upon a motion by Mayor Pro Tem Post, seconded by Councilmember Miller. Mayor Heggins, Mayor Pro Tem Post, and Councilmembers Alexander, Miller, and Sheffield voting AYE, the following re-appointment was made to the Planning Board for a term to begin April 1, 2018:

Mr. Cress Goodnight  
Mr. Jon Post

Term Expires 3/31/21  
Term Expires 3/31/21

### Transportation Advisory Board

Upon a motion by Councilmember Alexander, seconded by Mayor Pro Tem Post. Mayor Heggins, Mayor Pro Tem Post, and Councilmembers Alexander, Miller, and Sheffield voting AYE, the following re-appointment was made to the Transportation Advisory Board for a term to begin April 1, 2018:

Ms. Wendy Brindle  
Ms. Cynthia Kaminski  
Mr. Gary Price, Jr.  
Ms. Laura Schmidt

Term Expires 3/31/21  
Term Expires 3/31/21  
Term Expires 3/31/21  
Term Expires 3/31/21

Mayor Heggins asked Council to consider additional time for Council liaisons to consult with staff liaisons regarding recommendations for new Boards and Commissions appointments.

Mayor Pro Tem Post commented that the Planning Board has a total of twelve seats with two seats appointed by the Rowan County Board of Commission as a part of the Extraterritorial Jurisdiction (ETJ) that extends one mile outside of the City limits due to the chance of annexation. He commented cities are not able to conduct voluntarily annexation. He suggested Council have a discussion regarding the need for ETJ members on the Planning Board. Development and Code Services Manager Preston Mitchell stated a few cities are revoking their ETJ boundaries. He noted he would like to confer to the University of North Carolina (UNC) at Chapel Hill School of Government (SOG) for additional information on the ETJ Representation and also have additional conversation with Planning Director Janet Gapen. He asked that Council allow current ETJ members to remain active past their terms until Council has further decision regarding the ETJ member's seats.

Councilmember Miller expressed the need for candidates on the Planning Board. He stated the Planning Board has two vacant City residential seats and term limits expire on March 31, 2018. He suggested Council fill the vacant seats with what has been presented, and Council may provide an extension as needed. Mayor Pro Tem Post asked if the ratio would change. Mr. Mitchell stated the ratio could change and the City could sustain a rollback of 1,700 acres of land that would not affect voluntary annexations. Councilmember Miller requested staff bring a report to Council regarding potential effects of the removal of ETJ Representation on City Boards and with the Planning Department's recommendations regarding the ETJ membership removal. Mr. Mitchell agreed he would return to Council with the requested information.

## CITY MANAGER'S COMMENTS

### (a) Downtown Occupancy Rate

City Manager Lane Bailey commented the Downtown occupancy rate is 89.4%.

### (b) Fibrant Update

City Manager Lane Bailey addressed Council regarding Fibrant. He noted in November 2016 the City partnered CTC Technology and Energy a consulting firm based in Washington, D.C., that provides expertise and financial guidance for public sector communication networks such as Fibrant. He indicated the City worked with CTC to help find a solution for Fibrant and issued a request for proposals (RFP) for broadband providers in January 2017. The RFP stated the City's interest in a third-party provider for an arrangement that would enhance the Fibrant service in the community. He stated the City was flexible in the types of public and private proposals and he noted the City looked at sell, lease, and management agreements. He commented collect 14 responses from interested investors.

Mr. Bailey announced Hotwire Communications is the firm the City will continue to advance with. He noted Hotwire Communications is a privately owned fiber optic tele provider in Pennsylvania, New York, New Jersey, Ohio, Florida, Georgia, and North Carolina. He stated a long-term lease is in progress and there is a need to refinance the tax-exempt financing. He stated he had conversations with State Treasurer regarding support to move forward with the lease. He requested Council to consider approving a resolution to authorize the City Attorney and City Manager to move forward and create a text draft to send to the Board of Elections that meet requirements to hold a referendum in May. He commented PC Magazine and Netflix ranked Hotwire as the Nation's fastest major internet provider. He stated there is a deadline to get the Resolution to the Board of Elections.

Thereupon, Mayor Pro Tem Post made a **motion** to adopt a Resolution authorizing City Manager, in consultation with the City Attorney, to prepare the proposed text of the ballot for such vote and submit the same to the County Elections Director on or before February 22, 2018, and request that the measure be placed on the May 8, 2018, election ballot and to take such further actions consistent with these resolutions as the City Manager determines to be necessary or appropriate in connection with such.

Mayor Heggins asked if Council would have an opportunity to review the text before it is submitted to the Board of Elections. Mr. Bailey commented Council would have an opportunity to review the submission, and he indicated Hotwire Communications does not have to be specifically listed on the ballot. Mayor Heggins asked if copies of the Resolution would be made available to the public. Mr. Bailey noted copies of the Resolution will be available to the public. Mayor Heggins thanked Mr. Bailey for his work on the project.

Councilmember Alexander seconded the motion. Mayor Heggins, Mayor Pro Tem Post, and Councilmembers Alexander, Miller, and Sheffield voted AYE. (5 -0)



RESOLUTION AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO PREPARE THE PROPOSED TEXT OF THE BALLOT FOR SUCH VOTE AND SUBMIT THE SAME TO THE COUNTY TO THE COUNTY ELECTIONS DIRECTOR ON OR BEFORE FEBRUARY 22, 2018, AND REQUEST THAT THE MEASURE BE PLACED ON THE MAY 08, 2018, ELECTION BALLOT AND TAKE SUCH FURTHER ACTIONS CONSISTENT WITH THESE RESOLUTIONS AS THE CITY MANAGER DETERMINES TO BE NECESSARY OR APPROPRIATE IN CONNECTION WITH SUCH VOTE.

(The above Resolution is recorded in full in Resolution Book No. 15 at Page No. 5, and is known as Resolution 2018-04.)

### **COUNCIL COMMENTS**

Councilmember Miller requested Council set a date for the Special Event Permit Committee to meet. He suggested February 13, 2018 at 5:00 p.m., and he stated the purpose of the committee is to separate the Special Permit and Free Speech sections of the Ordinance into two separate sections. Councilmember Miller indicated the first meeting would set a course for future meetings. City Manager Lane Bailey pointed out the problematic issues that have been in the Ordinance regarding free speech have existed for many years. Councilmember Sheffield requested everyone who previously participated in the discussions be involved in the current meetings. Councilmember Miller agreed.

Councilmember Sheffield thanked Mr. Bailey and staff for their work to find a solution for Fibrant and keeping citizens informed. Councilmember Sheffield stated citizens are concerned about the changes in their garbage service. She pointed out the City has also recently dealt with inclement weather which caused a backup in garbage services and street sweeping. Councilmember Sheffield asked Mr. Bailey to provide a department update at the next Council meeting. Mr. Bailey agreed. Councilmember Sheffield thanked Mayor Pro Tem Post and Councilmember Miller for serving on the Special Event Committee.

Councilmember Alexander expressed concerns regarding the Goal Setting Retreat, and she requested Council meet and determine what would be included in the upcoming Retreat. Councilmember Alexander suggested Councilmembers review previous goals and projects, and she pointed out Council goals affect the City's budget. Mayor Heggins agreed that Council should meet to establish an agenda for the Goal Setting Retreat, and she suggested Council meet Tuesday, February 20, 2018 at 4:00 p.m. before the regularly scheduled Council meeting.

### **MAYOR PRO TEM COMMENTS**

Mayor Pro Tem Post referenced the Holiday Caravan Parade, and he asked Council to consider the possibility of the City taking ownership or joint ownership with Spencer. Mayor Pro Tem Post commented the City has a considerable investment in the parade, and he noted the Holiday Caravan Parade was previously owned by the Merchants Association.

Mayor Pro Tem Post indicated at a previous meeting he inquired about the cost of providing Wi-Fi access to certain neighborhoods in the City. Mayor Pro Tem Post pointed out 13% of Salisbury High School students have access to Wi-Fi at home and most of the text books are provided online.

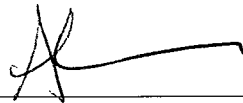
Mayor Pro Tem Post noted Hackathon will take place on April 21, 2018 in Council Chambers and the goal is to have 15 teams from five cities in four states participate in the event which will showcase Fibrant, Hotwire Communications and the talent of local students.

### **MAYOR'S COMMENTS**

Mayor Heggins stated she recently attended the Mayors Innovation Project in Washington, D.C. with Mayor Pro Tem Post, and she reviewed topics that were discussed at the Conference. Mayor Heggins referenced a change to the Agenda format, and she stated she hopes citizen's find the new format to be helpful. Mayor Heggins noted the City Council Meeting Agenda Request Form has also been revised and is now available to the public. Mayor Pro Tem Post indicated making the agenda request available to the public may be against State Statute regulations, and he noted the public has to go through a Councilmember to submit an item for the Council Agenda. Mayor Heggins stated the Agenda Submission Forms are submitted to Council. Councilmember Alexander requested clarification regarding the public agenda form submittal. Mayor Heggins noted she would provide additional clarification regarding the Agenda Request Form. She thanked Council and staff for all they do for the City, and she recognized Mr. Bailey for his work with Fibrant.

### **ADJOURNMENT**

Motion to adjourn the meeting was made by Mayor Pro Tem Post seconded by Councilmember Sheffield. All Council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 8:36 p.m.



Al Heggins, Mayor



Diane Gilmore, City Clerk